

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:11-CR-25
)	
DAVID MINER,)	(PHILLIPS/SHIRLEY)
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case came before the Court on June 22, 2011, for a scheduled pretrial conference and motion hearing on Defendant Miner's two pending motions: Motion to Continue [Doc. 12] and Motion to Continue [Doc. 14]. Assistant United States Attorney Frank M. Dale, Jr., appeared on behalf of the Government. Attorney Kim A. Tollison was present representing the Defendant. The Defendant was present via telephone.

Defendant Miner requests that the Court extend the motion-filing deadline and continue the June 29 trial date because defense counsel needs additional time to review the voluminous discovery in this case.¹ Defense counsel represents that the Government recently

¹Regarding the Defendant's Motion to Continue [Doc. 12], the Court issued an Order [Doc. 13] extending the motion-filing deadline to June 20, 2011. The Court noted that it would address the Defendant's request to continue the trial date at the scheduled pretrial conference on June 22, 2011. On June 20, 2011, the Defendant again requested an extension of the motion-filing deadline and to continue the trial date in this case [Doc. 14].

provided the Defendant was a discovery disk containing 4,181 documents. At the hearing, the Attorney Tollison stated that he was requesting an extension of the motion-filing deadline and trial date in order to review the voluminous discovery documents and to file any necessary motions. In addition, Attorney Tollison noted that the Defendant resides in Florida which has caused some difficulty in scheduling meetings. Attorney Tollison stated that he had discussed the need for a continuance with the Defendant. The Court questioned the Defendant, who confirmed that he wanted a trial continuance in order for Attorney Tollison to review the voluminous discovery in this case. The Court reminded the Defendant that he would remain under the same conditions of pretrial release if the Court continued the June 29 trial date. The Government stated that it did not oppose the Defendant's request to extend the motion-filing deadline and to continue the trial date in this case.

The Court finds Defendant Miner's motion to continue the June 29 trial date to be well-taken and that the ends of justice served by granting a continuance outweigh the interest of the Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). This case involves voluminous discovery, consisting of 4,181 pages of documents. Defense counsel needs time to complete his review of the discovery and to prepare any necessary pretrial motions. Once the Court hears the pretrial motions, it will need time to rule upon them and counsel will need time to prepare for trial in light of these rulings. Accordingly, the Court finds that the failure to grant a continuance would deprive defense counsel of the reasonable time necessary to prepare for trial despite his due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

Defendant Miner's Motion to Continue [**Doc. 12**] and Motion to Continue [**Doc. 14**] are **GRANTED** and the trial is reset for **November 8, 2011**. The Court also finds, and the parties

agree, that all the time between the **June 22, 2011** hearing and the new trial date of **November 8, 2011**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(D), -(h)(1)(H), and -(h)(7)(A)-(B).

With regard to other scheduling in this case, Defendant Miner's motion-filing deadline is extended to **August 1, 2011**. Responses to such motions are due on or before **August 19, 2011**. The parties are to appear before the undersigned on **August 29, 2011, at 10:00 a.m.**, for a pretrial conference and motion hearing on all pending motions. The deadline for concluding plea negotiations is **October 18, 2011**. Finally, the Court instructs the parties that all motions *in limine* must be filed no later than **October 24, 2011**. Special requests for jury instructions shall be submitted to the District Court no later than **October 28, 2011**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED**:

- (1) The Defendant's Motion to Continue [**Doc. 12**] and Motion to Continue [**Doc. 14**] are **GRANTED**;
- (2) The trial of this matter is reset to commence on **November 8, 2011, at 9:00 a.m.**, before the Honorable Thomas W. Phillips, United States District Judge;
- (3) All time between the **June 20, 2011** hearing and the new trial date of **November 8, 2011**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;
- (4) The motion-filing deadline is extended to **August 1, 2011**;
- (5) Responses to such motions are due on or before **August 19, 2011**;
- (6) The parties are to appear before the undersigned for a pretrial conference and motion hearing on **August 29, 2011 at 10:00 a.m.**;
- (7) The date for concluding plea negotiations is **October 18, 2011**;
- (8) Motions *in limine* must be filed no later than **October 24, 2011**; and
- (9) Special requests for jury instructions with appropriate citations shall be submitted to the District Court by **October 28, 2011**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge